

REMARKS

The Examiner has required an election in the present application between:

Species A, illustrated in Fig(s). 2-5 and 6;  
Species B, illustrated in Fig(s). 2-5 and 7;  
Species C, illustrated in Fig(s). 2-5 and 8; and  
Species D, illustrated in Fig(s). 2-5 and 9.

ELECTION

In order to comply with the Examiner's Election of Species Requirement, Applicants provisionally elect, with traverse, Species B, Figures 2-5 and 7, readable on claims 1-7, 9-22, 25-44 and 46-51 for prosecution in the present application. Applicants reserve the right to file a Divisional application directed to the non-elected claims at a later date, if so desired.

The Examiner also indicated that none of claims are considered generic to all species. Applicants respectfully disagree and submit that at least independent claims 1, 26, 38 and 48 are generic to all species A-D. For instance, in claims 1, 26, 38 and 48, the feature "...pointer indicates at least a position of most recent temporary defect list in the temporary defect management area..." is directed to and applicable to each of Figs. 6-9. Each of Figs. 6-9 merely shows an example of implementing the pointer recited in claims 1, 26, 38 and 48.

Furthermore, this requirement for election of species is respectfully traversed for the reasons set forth below.

As set forth in 37 C.F.R. § 1.146, a reasonable number of species are permitted in a single application. The Examiner alleges that the present application contains four species, which should be considered to be a reasonable number of species. Otherwise, the rule would be "only one species is permitted per application." However, this appears to be the way that the Examiner is interpreting Rule 146, which is clearly contradictory to the express language of the rule. Moreover, examination of both species together in one application would not place an undue burden on the Examiner. It is respectfully submitted that the Examiner's Election of Species

Requirement is improper in view of the fact that a reasonable number of species are set forth in the present application, and such is permitted by Rule 146.

Accordingly, reconsideration of the requirement for election of species, and an action on all of the claims in the application, are respectfully requested.

Favorable action on the present application is earnestly solicited.

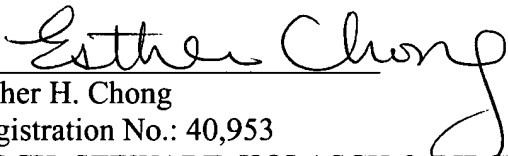
If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (703) 205-8000, in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: October 26, 2006

Respectfully submitted,

By



Esther H. Chong

Registration No.: 40,953

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant